



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

NORTH AMERICAN REVIEW.

No. CCLXXXII.

M A Y, 1880.

GENERAL GRANT AND STRONG GOVERNMENT.

I EXPECTED to write for this number of the "Review" an essay on "Strong Government," to show the calamitous evils it has brought on other countries, and to point out the dangers with which our own is threatened by its stealthy approaches. And herein I would have tried to make plain the principle of State rights, the solemnity of the compact by which those rights were reserved, the dishonesty (not the error) of the interpretation which denies them, and the duty of maintaining them as the sheet-anchor of individual liberty. But Mr. Boutwell turns me aside, or rather puts me back, by a new defense of the third term, which, upon the prudent principle of *obsta principiis*, the friends of free government must settle first of all; for this third-term innovation is to arbitrary power what a rat-hole in a Dutch dike is to the surging waters of the ocean: if not stopped up, it must become a huge crevasse, submerging all the land.

I do not complain of Mr. Boutwell's article. He had a right to interject his antagonism, and he is an opponent not to be ignored. He is (or has been) a high-placed gentleman—Governor of Massachusetts, Representative in Congress, Senator of the United States, and Secretary of the Treasury. Besides, he is a man of authority in his faction, and trusted to do their polemics. When he speaks it is with a voice potential, as double as that of any leader among them; and, on certain points, his expressive silence reveals the de-

signs of his associates as well as his own. Moreover, his article has some fragments of precious truth, which he has dropped along the path of his argument, apparently unconscious of their value. These I propose to gather up for the service of liberty and justice, to which all truth belongs.

He admits that Washington and Jefferson were patriotic and far-sighted men, entitled to a veneration which will "survive the criticism of Judge Howe, and outlive the defense of Judge Black" (p. 372). The whole American Democracy will thank Mr. Boutwell for this unexpected and most liberal concession. The friends of free government in every land and clime throughout the earth will be rejoiced to learn that the Father of this Republic and his great coadjutor, the Apostle of Liberty, are acknowledged to be venerable even by a subverter of their work, a contemner of their great example, a most obstinate disbeliever in their teachings. I am placed individually under special obligations to Mr. Boutwell by his gracious permission to speak well of Washington and Jefferson without injuring them fatally in his estimation. When he agrees that the fame of those illustrious men may still live, notwithstanding my defense of them against the aspersions of Mr. Howe, he accords me a high privilege, and binds me to him "with cords of perdurable toughness."

Mr. Boutwell gives us to understand (p. 371) that the character of Washington is not be attacked just now, because "his example is *not the only remaining* bulwark for the protection of our assailed and imperiled liberties. If this be so, then the reputation of Washington will need a more ardent defender" than I. There is some obscurity about this language, but the unavoidable inference from it seems to be that the projectors of a "*strong government*" intend to break down all the other defenses of civil liberty first, and then, when nothing but the example of Washington shall be left for the people to rally upon, his reputation will be assaulted so ferociously that no ardor of defense can save it from destruction. Be it so. "Sufficient unto the day is the evil thereof." I shall be out of the way before that last struggle takes place, but I shall die in the belief that the great name of Washington will continue to be a bulwark of civil liberty, invincible forever. If the worst comes to the worst and we have no other shield, they who rush upon the thick bosses of that one will but dash themselves to pieces. Evidently Mr. Boutwell does not see the grandeur of Washington's character or the impregnable basis upon which it stands. The moral influ-

ence of it on the hearts of all the world, except a few narrow-minded and ignorant enemies of constitutional government, is much greater than he thinks.

But this is a point on which there is not now any dispute between Mr. Boutwell and me. He gives it up that both Washington and Jefferson were wise and patriotic men, for whom there is no lack of veneration. It is not true, however, that my "argument against the election of any person to the Presidency a third time is based (exclusively) upon the example of Washington and the declarations of Jefferson." He was bound to know, and if he read the paper he was answering he did know, that I, as well as all the friends of the two-term rule, based our support of it upon the additional authority of Madison, Monroe, and Jackson, who greatly strengthened the principle, and increased the value of the precedent by repeating it. They stood as palpably in the way of the third-termers as Washington and Jefferson; and yet Mr. Boutwell has not a word to say against them. I take this as an acknowledgment that they too have a title to general veneration which can not be questioned. All of our great exemplars are allowed, at least for the present, to pass with the luster of their reputations undiminished. For this I can but renew the expressions of my gratitude to Mr. Boutwell and the other strong-government men, for whom he speaks.

But the rule is not established only by the example and precept of the retiring Presidents. It has a still broader and deeper foundation in the collective wisdom of the whole nation, which is the highest source, the best authority, and the strongest support of all law.

Mr. Boutwell tries to disparage it by saying that Washington, Jefferson, and Madison could not have believed in it, else they would have made it a part of the written Constitution. He says, substantially, that, if they had thought a limitation upon the tenure of the executive office proper or necessary, their failure to put a provision for that purpose into the organic law was a disregard of their duty so gross that it admits of no excuse or apology. This is an attempt to reason falsely from perverted facts. Mr. Boutwell would never have tried it if he could have kept clear of it; but he had to construct his argument out of the materials which the strong-government men gave him, and this was the best they could furnish. The known truth contradicts every word of it.

Washington and Madison acted throughout the session of the

Convention in steady opposition to unlimited reëlections. How or why the provision came to be dropped out of the plan at the very close of the session needs no explanation here: it is certain that Washington and Madison were in no wise to blame for it. They both thought it a misfortune, and to this conviction all their conduct was faithful afterward as well as before. When Jefferson, who had been absent on the mission to France, returned home, he conferred with them and others on the best mode of remedying this and some other defects in the instrument; but, fearing that a serious or protracted opposition might cause it to fall through altogether, they concluded to advise its immediate and unconditional ratification. The certainty that Washington would be the first President, and the belief that his example would make a law as effective as any that could be framed in written words, reconciled the country, and gave the whole people faith in the perpetuity of their institutions. That Washington considered a third term as leading to the overthrow of the Government, and intended his own retirement to be a precedent which would shield us from that danger, is a fact so notorious that Mr. Boutwell himself can not shut his eyes upon it. After saying (p. 375) that Washington "yearned for the peace and quiet of private life," he adds this remarkable language—remarkable, I mean, as coming from him: "*Nor can there be a doubt* that, superadded to these personal considerations, was the thought that his example might serve as a restraint in case of the appearance of a popular leader *who should seek to subvert the Government through successive elections.*"

Truer words than these were never spoken. But they are not all the truth. Mr. Boutwell should have added that Washington's retirement was then and there accepted by the nation as supplying the want of a written interdict upon a third term; as filling up the *casus omissus* in the Constitution; as making a part of our free institutions; as interposing a safeguard against a subversion of the Government by successive elections—as the beginning of a custom which should have "no variableness, neither shadow of turning." If anybody suspects me of overstating the case, let him look at the record and be satisfied.

In December, 1796, Washington opened the session of the last Congress that assembled under his Administration, as was his wont, with a speech, in the course of which he simply referred to the situation in which he stood for the last time in the midst of the people's representatives. The answer shows what construction was

then given to his conduct in declining a third election ; how gratefully it was accepted and how highly it was appreciated as a precedent for the future. The representatives, speaking for themselves and the nation, of whose hearts they believed themselves the faithful interpreters, said that "that event of itself *completed* the luster of a character already conspicuously *unrivaled* by the coincidence of virtue, talents, success, and public estimation." This act, like his resignation as Commander-in-Chief, they affirmed to be "no less rare to mankind than *valuable to a republic*" ; and concluded thus : "For your country's sake—for the *sake of republican liberty*—it is our earnest wish that your *example* may be the guide of your successors, and thus, after being the ornament and *safeguard* of the *present age*, become the patrimony of our *descendants*."

Jefferson's adoption of the Washington precedent was more universally approved than any other act of his pure and beneficent life, and the reasoning by which he showed that a third term was inconsistent with the safety of the republic has never been controverted by his worst detractors. By the time Madison served out his two terms, the rule had become so firmly fixed in our system that even the Father of the Constitution, fresh though he was from a victorious struggle with the enemies of the nation in Old England and New England, could have done nothing either to strengthen or to weaken it. It is true also of Monroe, that nothing was left him but implicit obedience. He treated the two-term rule as a settled institution, and, if he had shown the slightest sign of disrespect for it, he would have lost for ever the unbounded popularity which he had won by long years of virtuous service.

Jackson was as faithful to it as any of his predecessors, and believed as devoutly as they did that the continuance of one man in the Presidential office for an indefinite time was in deadly conflict with the fundamental idea of a republican government. But he doubted the stability of the custom. The fervent love with which he was wedded to his country made him jealous of the efforts which might be used to debauch her virtue. He had seen strong government raise its head almost as impudently as we see it now. In defense of the Constitution, he so wounded the monster that most men thought it for ever disabled. But he was fully conscious that he had "scotched the snake, not killed it." He feared that some adventurous enemy of equal rights, aided by a combination of special interests with corrupt politicians, would contrive an excuse for breaking through the unwritten law and get a following large

enough to do it. To prevent that calamity he proposed an amendment to the Constitution which would put an express limitation on the right of reëlection. His view was not concurred in. The representatives of the people and the people themselves thought the custom as strong as any amendment could make it. Jackson, acquiescing, was content to strengthen it by adding his own example to the others.

From that time to the summer of 1875 the wisdom or necessity of the two-term rule was never questioned. Nobody denied its binding force on the national conscience, and the current of popular feeling in its favor, like a great river receiving its affluents from every region it drains, became wider and deeper as it rolled down through the ages. Of this, the most unmistakable evidence that could be given is the rebuke so solemnly and unanimously administered by the House of Representatives to General Grant when he began to be pressed for a third election. That resolution was received with a shout of universal approbation. Mr. Boutwell's studied abstinence from all allusion to it shows that he believes it to have been the true expression of a determination to stand by the two-term rule, and guard it well against the venal ambition which, by breaking it down, would bring our free institutions into peril. Both the Congress of 1796, which thanked the Father of his Country for making that salutary precedent, and the Congress of 1875, which refused to abandon it after eighty years of use, faithfully interpreted the heart of the nation ; each was a mirror of existing public opinion ; and each "gave to the very age and body of the time its form and pressure."

Our Saxon ancestors had certain *customs* which made them the freest people then in the world. Few of those customs were so well established as this one of ours by uninterrupted use and universal consent ; but they were customs generally acquiesced in, and therefore laws which enlarged their own liberties and defended their rights against the encroachments of monarchy. Then rose a king, greedy for strong government, and anxious above all things to abolish the popular customs which limited his power. He and his corrupt parasites tried all that in them lay, now by insidious wiles and again by threats of force, to get a surrender of those customary rights. But the barons, speaking for themselves and for the freemen under their protection, gave him that memorable answer, simple to be sure, but made sublime by the occasion : "*Nolumus leges Angliae mutare.*" ("We will not change the laws of England.")

This substantially was the answer which Grant got from the Congress of 1875 when he wanted them to abandon a time-honored custom which was "part of *our* free institutions." May God forbid that he or his minions should ever have any other!

Mr. Boutwell protests most vehemently against the binding obligation of a custom; he asserts that the tradition of the fathers with respect to a third term can never have the effect of a written restriction—that the tradition in question is not what Congress said it was in 1875, a part of our free institutions; that it is a mere opinion entertained by men of a past generation, but entitled to no controlling influence at the present time. He will not condescend to give reasons for this judgment; "statement," he says, "is sufficient; argument is unnecessary." And here is the statement: "We *refuse* to allow the *hands* of *dead* men to control the *soil* of the country; and shall we without inquiry, without a judgment of our own, permit the opinions of dead men to control the thoughts and the policy of the country?" (p. 373).

It is a pity to take the conceit out of a gentleman who is so happy in his contempt for dead men. But it is necessary to tell him that this is not merely an impious violation of the fifth commandment, but an utterance void of all reason and sense. It is a bald absurdity to say that we *refuse* to *allow* dead men's *hands* to cultivate and use the soil; for the hands of dead men were never offered to us for that purpose. If it be meant to say that our right in the soil is not defined, and our use of it regulated by the laws, customs, conveyances, and testamentary writings of dead men, then the writer does not at all know what he is talking about; for in that sense the soil *is* controlled by dead men. Precisely the same is true of public affairs. While dead men do not vote at elections, or collect taxes, or fight in the army, or sit in the courts, yet their decisions, customs, opinions, traditions, and enactments define the limits of power, protect the liberty of the people, regulate the policy and control the thought of the country upon all subjects, religious, moral, and legal, as effectually as if they were still alive. Without this control, society would go all to pieces in an hour. Without it we could have neither church nor state, nor family nor social existence. We *must* be so governed; and it is the mere drivel of communism to say, "We *refuse*."

Why may not a custom like this become binding as a law? Congress in December, 1875, declared that it was binding law, which could not be disregarded without bringing our free institu-

tions into great danger ; therefore, it ought to be strictly adhered to, and all the people said, Amen ! But Mr. Boutwell considers this a mere notion, supported by nothing better than rhetoric. Let him and his disciples reflect on it a little further, and see if they are not mistaken.

It is a principle of universal jurisprudence, which prevails in every civilized country, that a rule of public or private conduct, spontaneously adopted and continuously observed, becomes the law of the subject to which it relates, and is perfectly binding on the conscience of magistrate and people provided it be reasonable and just in itself, notoriously practiced, of long standing, generally acquiesced in, uniform in its operation, uninterrupted in its course, and not in conflict with any law of paramount obligation. Such a custom is, always and everywhere, held to be especially sacred when it is intended and used as a restriction upon political power or a safeguard to civil liberty.

That the two-term rule is coeval with the Government, consistent with the Constitution, notorious, uniform, uninterrupted, and unopposed for nearly a century, is, as matter of fact, undenied and undeniable. It has, therefore, all the requisites of a binding law, unless its opponents can show it to be intrinsically an unreasonable or bad rule. But I affirm that the custom is salutary, wholesome, and good ; and this I can prove to the hearts' content of all third-termers, by their own spokesman, Mr. Boutwell himself.

He opens his article thus : "In politics, morals, and law there is a field for presumption." If he had been willing to "talk less in King Cambyses' vein," he would have said that in those sciences, as in all others, a truth may be shown by presumptive as well as by direct evidence. What, then, are we to presume concerning the custom in question when we look at its origin and history ? Begun and carried out by the foremost men in the world, it was accepted from the first, and upheld to the last, by the collective wisdom of the whole nation. Does not this raise a presumption—too strong to be resisted by any sensible man—that the rule is just, proper, and necessary ?

But, added to this, I can produce Mr. Boutwell's *positive* testimony. I know that the *argumentum ad hominem* proves nothing. I am aware that a cause is not logically lost because one of its defenders contradicts himself when he speaks upon it. But, where the authors of a new political scheme put forward one of their number to reconcile its opponents by displaying its merits, and

the advocate admits that it has no merits, it is perfectly fair to take him at his word. The confession in this case is none the less useful because it is grudgingly made in little pieces which lie about, here and there, in mere confusion. It is vexatious to pick out these fragmentary revelations, but we must take the trouble. Like an unwilling witness under pressure of his conscience, the truth oozes out of him drop by drop, and we must patiently catch it as it comes.

He says, *totidem verbis* (on p. 376), that the authorities in favor of the rule are good ; that the "experience of Europe gave rise to an opinion in America that it was dangerous to permit the chief magistrate to remain in office for a long time," and then admits that "when there was no trustworthy history, either for warning or example, except that of ancient Rome and the history of the mediæval and feudal states of Europe, the argument [to wit, the argument which proves the rule to be necessary] was *not* bad." Elsewhere (p. 375) he discloses his knowledge that the argument against a third term at that time, instead of being a bad one, was good enough to make Washington and his compatriots determine to prevent it by his example, and thus save the Government from subversion. Does Mr. Boutwell assert that anything in the history of the world has occurred since then which ought to weaken our faith in the value and importance of the rule ? Certainly not ; on the contrary, he confesses that "Washington's example was set off and made more impressive by the phenomenon of a Corsican corporal, passing as it were at a bound from the ruins of a republic to the throne of an empire" (p. 376) ; and he might have added that in the same country, at a later period, another republic was ruined in a way which made the warning still more striking. But Mr. Boutwell's confession is fuller yet. In the following passage (p. 375) he makes a tolerably clean breast of it. Speaking of the "general disinclination of the American public mind to the election of the same person to the Presidency a third time," he goes on to say : "It is, however, as old as the Government. It had its roots in the experience of the colonists. In Europe hereditary power had fostered standing armies, and standing armies had maintained hereditary power. Both were the enemies of personal liberty and popular rights. It was the purpose of the founders of our Government to render standing armies unnecessary, and the possession of hereditary power impossible. If the experience of a century is an adequate test, the end they sought has been attained. They had ob-

served, also, that the possession of power, by virtue of office, for unlimited periods of time, tended to the establishment of dynastic systems, and to their recognition by the people. Hence, provision was made in all our Constitutions, State and national, for frequent elections in the legislative and executive departments of Government."

This certainly is as plain an acknowledgment as can be made that continued reëlection is dangerous to personal liberty and popular rights, and that the two-term limitation, or something equivalent, is necessary to save the Government from subversion by standing armies and hereditary power. The rule we contend for is, therefore, wise and salutary, the third-termers themselves being judges. Not only is that settled: it is undeniably fixed that the custom has all the other requisites of a good and valid custom—age, notoriety, constant observance, and consistency with previous regulations. For those reasons it is and must be a valid law, technically as well as morally binding on the country. No American citizen who obliges himself, by oath or otherwise, to obey the laws, can honorably violate this rule or counsel opposition to it, for it is not only law, but fundamental law—*lex legum*—a law of laws—confessedly necessary to preserve all others from destruction.

Mr. Boutwell begs the whole question when he says that the apprehension so universally felt of great danger from repeated re-elections of the same person did *not* lead the founders of the republic to the adoption of a *system* which limited the right. It *did* lead them to that very thing. The written Constitution is silent, to be sure, but, on the earliest occasion after it went into operation, the omission was supplied by a custom which then became, and now is, a part of our *system* as much as anything else it contains.

Without summing up Mr. Boutwell's confessions, it will be plainly seen by every reader that he has yielded all points. The third-termers put up the best man they could find to defend them, and he honestly but reluctantly gives away their case. It requires some boldness to ask for a judgment after that. But Mr. Boutwell's courage is not wanting in the last extremity. The two-term rule may be right in law and morals, but he despises it; it may be strong, but his determination to break it down is irrepressible.

One argument, totally apart from the merits of the question, is used with immense success by Mr. Boutwell and all third-termers who have written or spoken on the subject. Not one of them neglects to urge with all his might that opposition to a third term and

General Grant is a sentiment almost if not quite universal with Democrats. This converts our rancorous enemies by the score : an appeal to blind partisan malice is never made in vain. In this discussion and for the present purposes of strong government it is the most irresistible of all arguments, more potent than Cicero's best oration, more effective than all the logic of Aristotle, more powerful than the eloquence that "shook the arsenal and fulminated over Greece."

We have no answer to this charge of democracy. With all humility we plead guilty, and throw ourselves on the mercy of the third-termers. We *are* Democrats. We believe in the Constitution, and in the sanctity of an oath to support it ; in the traditions of the fathers, and the principles of free government as settled by them. We have held fast to this faith. We never surrendered or sold or gave up our heritage. When it was stolen from us we cried out upon the robbery, and reclaimed our rights as soon as reclamation was possible. In the courts we struggled with our utmost strength for the restoration of trial by jury and the privilege of *habeas corpus* ; on the hustings, in popular conventions, and in legislative assemblies we protested against the domination of carpet-bag thieves, and exposed remorselessly the dishonest measures by which we saw the public Treasury plundered. We thought it a good tradition of the fathers that the military power should be subordinate to the civil authority ; and, when we saw elections carried by the bayonet, Legislatures forcibly tumbled out of their seats, and the basest scoundrels in the country placed by brute force in the offices to which honest men had been elected, our sense of right and justice was shocked beyond expression. We thought the right of the States to elect their own officers and their own representatives in Congress by the free suffrages of their own people was clear as the plainest constitutional law could make it. We therefore looked with loathing on the systematic violation of this great right, carried on for years by the Federal Administration ; and none of us could be reconciled to the great swindle of 1876 by which the whole nation was basely cheated.

This is what democracy has led us to. Doubtless we are great sinners in the eyes of Mr. Boutwell. Not to have given up these principles is a crime for which he can not forgive us. But he ought not to blame us too bitterly. We could not help it. We were brought up to revere the founders of the republic, and to obey the laws and customs which they handed down to us. Instinctively

and by habit we loved free institutions, honest observance of oaths, and good faith in the execution of public trusts. In all this Mr. Boutwell differs from us *toto caelo*. But can he not make some allowance for our prejudices against fraud, perjury, and corruption, unreasonable as those prejudices may seem to his superior wisdom? It is hoped also that he will be somewhat conciliated when he recollects that our delusions are encouraged by a very general concurrence in them: the white men of the Union by a million majority expressed their approbation of our views at the last Presidential election, and even negroes by the hundred thousand refused to condemn them. Moreover, it is not true that Democrats alone are opposed to a third term. Republicans—a large majority—not knaves and cowards, and not “metallic calves,” but the best men in the party—are as much opposed to it as we are. This consideration should silence Mr. Boutwell’s mere partisan rhetoric, disarm his wrath at once, and “check his thunder in mid- volley.”

He strikes another blow which hits us hard. He says, in effect, that the old government is so battered up that no respect ought now to be paid to any principle of its founders. I quote his words (p. 273): “We have changed, indeed in some particulars we have *annihilated*, the Constitution of Washington, the Constitution of the Fathers. . . . And is the unwritten law more sacred? May the people *annul* the written law of the fathers, and still be perpetually *bound by their traditions?*”

This is extremely well put, “with good emphasis and good discretion.” I am compelled to admit that they (Mr. Boutwell and his political associates) have annulled the Constitution, not in some, but in all particulars. No line or letter of it has escaped their destructive hands. Every right of the States and all personal liberty have been wantonly outraged. Trial by jury, *habeas corpus*, free speech, the elective franchise, everything that tended to promote the great objects for which the Constitution was made, were trodden down. The military was placed above the civil authority, and the power continues to be claimed for standing armies to “shed the blood of war in peace.” To nullify the most important part of our great charter, a bill of pains and penalties against ten States and eight millions of people was forcibly injected into the bowels of the Constitution itself, and there it lies to this day, side by side with the provision which forbids its existence. Certainly I agree with Mr. Boutwell that the written instrument by which our fathers sought to secure the blessings of liberty to themselves and their posterity

has been wholly set at naught, and his tone of triumphant interro-
gation is not out of place when he asks, "Is the unwritten law
more sacred?" Assuredly it is not. A conscience which is hardy
enough to spurn the restraints of the written Constitution need not
affect any remorse for refusing to accept a tradition. Having swal-
lowed that camel, it is but the folly of the Pharisee to strain at
this gnat.

But Mr. Boutwell, being a charitable and fair man, will, I am
sure, excuse us for adhering to the tradition, though it be connected
with the Constitution which his party has broken and dishonored.
We see the whole subject from another point of view. We expect
the restoration of popular liberty; we hope soon to replace our
institutions upon the firm foundations which our fathers laid. We
have already made much progress. Many of our violated rights
have been vindicated in the courts; oppressors have been scourged
back into private life; the thieves who ruled us for their pleasure
and plundered us for their profit are on the run; a majority of the
States, both Houses of Congress, and the unbroken heart of the
nation are with us; and but for the atrocious fraud of 1876 no rem-
nant of Asiatic despotism would disgrace this country now. The
argument that the two-term rule is useless to uphold institutions
already overthrown will become plainly inapplicable when the
structure is completely rebuilt. When the ship of state is again
put on her constitutional tack, this traditional rule of navigation
will be as necessary as ever to make her course true and her pro-
gress safe.

There is another reason why we can not afford to abandon any
custom which favors civil liberty, even if the written Constitution
be considered as hopelessly abolished. Our fathers were freemen
before the Constitution; that instrument defined certain preexisting
rights established by custom, and provided an organization for de-
fending them. Suppose the definition to be obliterated and the
defenses thrown down, would that make us slaves? No; in that
case we would fall back on the unwritten law. We would stand
upon the colonial customs, or seek protection under the common
law, tracing it, if need be, to the reign of Edward the Confessor or
Alfred the Great, or finding its sources in the still older customs of
our German ancestors. If all this fails, we will appeal to the great
unwritten law of Nature—the law that Hooker speaks of when he
says, "Her seat is in the bosom of God, and her voice is the har-
mony of the world."

Americans who are true to themselves and one another can not afford to give up a custom which is "part of our free institutions," merely because previous wrongs have deprived them of other parts. On the contrary, the losses already sustained should make us cling all the more closely to what is left. This excuse of Mr. Boutwell for his proposed violation of the two-term rule will pass for a good one only with men who are hostile to all free institutions.

Here rises the most important of all questions: What is the ultimate object of the third-termers? Why these desperate efforts to push on a third-term candidate in the face of an opposing sentiment expressed by all parties, manifesting itself in all places, and certain to be felt at the polls if the election be a free one? Friends of republican government, who respect the popular will, could not act thus. Even demagogues, who want votes as a mere means of getting offices and jobs, do not usually endanger their own success by dragooning the common file of their supporters. Without the principle of patriots, without the prudence of partisans, the third-term men must have some purpose inconsistent with both. The general belief is, that they mean to force the nomination of Grant, then coerce a false count of the votes, and finally subjugate the nation to their personal rule. If this prevailing opinion be erroneous I am not responsible, for I have been among the last to adopt it. But there certainly is some evidence tending to show that the designs of the Grant men are at enmity with existing institutions, and so far revolutionary that they would be called treasonable if treason here, as in England, consisted in seeking to compass the death of the Government.

At a very early period in our history the enemies of republican principles were thoroughly equipped, and entered actively upon the struggle for supremacy. Some of them got into the Convention which framed the Constitution. At their head was Hamilton, who laid before the body their whole plan for a central government, which, if adopted, would have completely extirpated the rights of the States and the liberties of the people: a Chief Executive for life, unimpeachable for any misconduct; a Senate for life; a triennial House of Assembly; a Federal judiciary "for the determination of all matters of general concern"; the Governors of the States to be appointed by the President. Of such a government, the tyranny and corruption must have become perfectly unendurable if administered, as it was expected to be, by the men who proposed it; and doubtless it would, in a very short time, have led to a monarchy in

name as well as in substance. But the Hamiltonian plan was defeated, and under the auspices of Washington, Madison, and their compatriots the present system was framed, by which certain powers, specifically enumerated, are bestowed on the General Government, while all others are expressly reserved to the States and the people; and this system is to be administered by agents of the people's choice, strictly accountable, subject to frequent rotation, and sworn to keep within the limits of their legal authority. This government, so simple and so clear, so definite in all its arrangements of power, and so guarded against abuse, was hailed at home and abroad as the best result of political wisdom that the world ever saw. I devoutly believe that the estimate of its friends was right, but I have no eulogy to make on it now. I merely claim that our obedience to it is due as a moral necessity. If a sworn officer willfully violates it, he is guilty of perjury; if its commands be habitually disregarded, the nation is politically ruined, and the people are defrauded of their rights.

But from the very first it had enemies, who tried to subvert it and substitute in its place the reign of arbitrary power. There has always been an unprincipled faction composed of persons who tried to rid themselves of the wholesome limitations which protected the equal rights of the States and the people. By frequent changes of name and the assumption of new shapes, by appeals to the baser passions, by combinations of special interests, by plausible but false interpretations of the fundamental law, by adroitly taking advantage of accidental circumstances, they have often succeeded in "drawing much people after them"—people who really loved free institutions, and had no intention to destroy the Government or depart from the traditions of the fathers. When their designs became known, the honest portion of their followers have uniformly fallen away from them. Perhaps no instance of this is more striking than the direct and positive refusal of the great mass of the Republican party, in 1876, to endure the nomination of General Grant for a third term.

That the present movement to that end means simply a conspiracy to wipe out the Constitution once for all, and have done with its restraints upon arbitrary power, is proved in so many ways that it admits of no doubt. It is publicly urged by all its friends for the sole reason that General Grant is a *strong* man. In the cases of Cæsar, Cromwell, and both the Napoleons, strength was the quality for which they were elevated to absolute power. It is the *might*

of the ruler that overcomes the *right* of the people whenever a republic is to be strangled. Strength that governs with a rod of iron is always the recommendation of one who is to be made a monarch, insomuch that the word "king" (*Koenig*) signifies in the language we take it from exactly what General Grant's adulators habitually call him—*the strong man*.

But the strong-government idea has been set forth by its projectors in various authorized publications, manifestly intended to prepare the minds of the American people for the advent of despotism. Before Napoleon mounted the throne, certain well-remembered articles appeared in the "Moniteur" to foreshadow the empire that was coming, to prove that a republic was too weak to be compatible with the interests of France, and to show that nothing would do but the strong government of one strong man. Precisely similar were the approaches of the other Bonaparte to absolute power. Here we have almost a repetition of those French articles. One of these, anonymous, but printed in a magazine of high authority, describes the Constitution of the United States as an effete system, adjudges State sovereignty to be treason, declares the masses of the Northern Democracy unfit for self-government, anticipates that the South will cease to be formidable after the next census, and then gives a picture of the good time coming, when a central Government, with the States under its feet and the people at its mercy, shall exercise a controlling supervision over all elections, and regulate all domestic subjects down to marriage and divorce. What sort of a head this strong Government shall have, or how he shall be called, is not disclosed; but we are told to look for a change in the mode of choosing him, the present plan being antiquated and clumsy.

But the most alarming evidence I have seen that the friends of a "third term and General Grant" are plotting the overthrow of the Constitution is in Mr. Boutwell's own article. He knew when he wrote it that designs utterly hostile to our free institutions were imputed to him, his faction, and his candidate; that the accusation was believed by very many of the most influential men in the Republican party; and that it was almost universally thought to be true by the Democrats. He could not help but see, in the paper which he was undertaking to answer, that the strongest objection to the movement for Grant was its anti-constitutional purpose. He was also fully aware that nineteen twentieths of the American people are true to the Government of their fathers, which they de-

sire to see honestly administered, and are totally opposed to any kind of personal rule stronger than the laws. Yet Mr. Boutwell puts in no word of denial. Why does he stand mute under a charge which so seriously affects, not only the political, but the moral integrity of himself and his associates? No sane man can hesitate for a moment to interpret this silence as a consciousness of guilt.

But, besides this dumb eloquence, there is something more in that same paper.

In all countries and in all ages it is the uncontrollable impulse of public oppressors to call every man a traitor who is not willing to be a slave. In the eyes of the usurping tyrant and his sycophantic flatterers the most odious crime that can be committed is the assertion of his legal rights by a freeman. This crime Mr. Boutwell charges upon the Democracy, and gloats over the punishment they will get for it. He says (p. 373) that "*the spirit of rebellion*, of resistance to the Constitution, is manifested by a large class of citizens. These citizens, *without exception*, are Democrats, and they receive aid and encouragement from the Democratic party."

Of course, I will not vouch for the absolute perfection of every individual who claims to be a Democrat. But that Democrats, as a body, or by party concert, have resisted the Constitution in any manner, or that they have not submitted even to the unconstitutional tyranny of the Federal Government with entire passiveness, is a falsehood so vile, so gross, and so palpable that I will not believe Mr. Boutwell meant to assert it. What he did mean was to say that we have claimed our just rights by legal and peaceful appeals to the public conscience, in the courts and on the rostrum, at the polls, and through the press; and he but speaks after his kind when he calls this the "*spirit of rebellion*," for, according to his theory, lawful opposition to unlawful power is always constructive rebellion. He is consistent with his creed when he warns us that this spirit shall be wholly extinguished, and that Democrats for indulging in it shall be remitted to a state of abject slavery, and deprived of all right to control their own affairs, either political or private; and, to that end, all traditionary notions of liberty, equality, and fraternity are to be set aside. "*It is the purpose of the Republican party*," says Mr. Boutwell (page 373), *to suppress that spirit*, to render it *powerless absolutely*, both in personal and public affairs, and it may happen that in accomplishing this result the *example of Washington and the tradition of the fathers will be disregarded*." While I do not think that a majority of the Republi-

can party would assist for one moment in carrying out this brutal threat, Mr. Boutwell is ample authority for the belief that the Grant leaders are not only insolent enough to utter it, but base enough to execute it, if they ever get a chance.

It is plain enough what prompts them to these desperate measures. When the elective franchise was given to the negro they thought they had legalized a sure mode of stuffing the ballot-boxes, and, so sustained, strong government promised to itself a life without end. But in the course of time the negroes ceased to stuff, and some of them began to vote. This was so contrary to all previous calculations that the friends of strong government could not realize it; they thought it must be caused by some mysterious application of physical force. To this day Mr. Boutwell is unable to comprehend the possibility of a free negro voting of his own head against a carpet-bagger who has robbed him, against a Freedman's Bank that has swindled him out of his earnings, or against a scurvy politician who has cheated him by false promises of forty acres and a mule. Therefore, he believes in the chimera of a bulldozer as much as Cotton Mather believed in witchcraft, and swallows as greedily the false and unreasonable evidence which feeds his credulity. He declares in this article that in the Southern States "any number of citizens are as a public policy of communities and states deprived of their civil rights"; that offices are held there, and power wielded, "through proceedings that are systematically tainted with fraud or crimsoned with innocent blood"; that "one vote of a white citizen in South Carolina is, as a fact in government, equal to three in Massachusetts, New York, or Illinois"; that there are persons in Congress who have no right to their seats, "and these persons constitute the majority in both branches." These monstrous outrages upon the known truth admit of one excuse and only one—Mr. Boutwell believed them.

But the sincerity of his belief in these false statements is no excuse for the pretense he makes of honest indignation. That is a sham, and he knows it. He and his *collaborateurs* in the strong-government enterprise (including the strong man himself) have no conscientious objections to false or forced elections. They have no respect whatever for the right of the people to choose their own officers, State or national. The strength for which they laud their chief so extravagantly was never exhibited during his Presidency, except in coercing voters, suppressing true returns, or otherwise defeating the legal expression of the popular will. Mr. Boutwell

is, therefore, in no condition to speak on this subject as an accuser of others; the beam in his own eye disqualifies him to hunt for motes in the eye of his brother. Nor could he do General Grant any good even by showing that elections are now unfairly conducted. We desire, above all things, to have a free poll and a fair count, and we are much afraid that we will be permanently deprived of our right; but we do not look to Grant for redress or remedy. We do not trust the arch-enemy of honest elections to purify the ballot-box; for that would be "casting out devils by Beelzebub, the prince of devils."

I will make Mr. Boutwell a proposition. If he will name any kind of violence or intimidation which the Grant faction have *not* used to prevent a true poll, or any form of fraud which they have *not* practiced to falsify returns, or any sort of cheating in the count which they have *not* resorted to, or any species of the *crimen false* which they have *not* perpetrated as a means of swindling the majority; if they have *not* filled the seats of Congress with impostors whose object it was to misrepresent, injure, and degrade the States they pretended to come from; if they did not falsely procure the election of infamous men to every kind of State office, or when defeated put them in possession and maintain them there by force of arms; if they did not in 1876 defeat the known will of the nation by a most stupendous swindle—if Mr. Boutwell can show that these things and others like them were not done at divers times and places, under the auspices and with the approbation of General Grant and those friends of his who are now pushing him for a third election, then I will give up the whole case and promise to vote for his candidate. There! he has a chance to make one vote, without the risk of losing his own; for, if he fails, I will not ask him to vote my ticket: I will merely insist that he shall not hereafter turn up the whites of his eyes and pretend to be wounded in his virtuous soul, when a fugitive carpet-bagger tells him how he had to drop his plunder and fly for his crimes, because negroes were bulldozed at the South.

General Grant's own history and character as a civilian make it certain that those who support him are enemies of free and honest government. These third-termers are not madmen. They have tried Grant, and they know what he is good for. Those acts of deadly hostility to the Constitution which distinguished the period of his Administration they expect him to repeat. Those atrocious corruptions which made it the golden age of the public plunderer they look for again. I affirm that they intend this, not because

they have said so in words, but because, being sane men, they can intend nothing else.

Doubtless he is a strong man—not mentally or morally strong—but plenty strong enough with an army at his back to spurn the restraints of law and break over the Constitution. It took a strong man to make such governors, and judges, and treasurers, and legislators as he made for the States, and to hold them in place by the bayonet ; to force elections against the will of the electors, and to inaugurate a President who had been rejected by the people.

One manifestation of his strength has hardly excited so much admiration as it deserves from his followers. During his last term he took from the Treasury, in flat defiance of the Constitution, one hundred thousand dollars in addition to the hundred thousand which was his legal salary. There was a transaction of Cæsar's with the Roman treasury not dissimilar to this—and Cæsar was a strong man ; but Grant, more than Cæsar, showed that peculiar contempt of law which by his admirers is supposed to be *strength*.

Sometimes they tell us that he is not only strong but faithful. Faithful to what ? To his own breeches-pocket ; to the rich men who made him presents ; to the carpet-bag thieves whom he fastened on the Southern States ; to the corrupt rings that supported him in the North ; to the returning boards who forged election-papers to suit him ; to the tools of the vulgar force which thrust his fraud down the throat of the nation—to all these he was faithful enough ; but faithful to the Constitution and laws he never was. From beginning to end of his Administration he was treacherous to the most sacred trust that human hands can hold.

This is no railing accusation against General Grant, no harsh construction of his past acts, no detraction from his claim to a certain degree of personal respectability, no proof that as a despot he would not do as well as another. He is a mere soldier, with no knowledge of law and no conception of the purpose for which civil institutions are made. When elected President, he took the Government on his hands as a mere job to be done for the interests of those who employed and paid him, without caring what rights of other persons might suffer. Horace's description of a military chief governing strongly in civil affairs has never in modern times been so perfectly realized :

“*Jura negat sibi nata; nihil non arrogat armis.*”

He did not stop to inquire what was in that Constitution which he swore to preserve, protect, and defend ; if he had taken an oath to

destroy it, his hostility would have been neither less nor greater. If there be one provision of the Federal compact more perfectly clear than any of the others, it is that which reserves and secures to the States all sovereign authority, jurisdiction, and powers, except what are specifically enumerated and expressly given to the General Government; but, clear as this is, General Grant never could see it. When a politician came to him (especially if he came with a present in his hand), and told him that the States had no rights, and the doctrine of State sovereignty was mere treason, he believed it firmly and acted accordingly. He himself has furnished conclusive proof that, when he stretched forth his rapacious hand and took from the public Treasury a hundred thousand dollars more than his lawful salary, he had never read or heard about that part of the Constitution which forbids the compensation of a President to be increased "during the term for which he shall have been elected." It probably never struck him that it was bribery to accept money and lands and goods from men whom he immediately afterward appointed to the highest offices in his gift. When to this is added the proneness of ignorant ambition to that Cæsarean rule of ethics which declares everything right which is done *regnandi causa*, you have a character dear to the heart of strong government, but utterly unfit to be trusted by a people who desire to be free.

However that may be, all evidence shows that the object of pushing General Grant for a third term is not to give us an honest and legal administration of our public affairs, but to set up some system of absolutism without law, or, as Mr. Stevens said, "outside of the Constitution." What form or title shall it have? If its projectors succeed, will they give us an imperial despotism, open and avowed? Or will they curse us with the heavier and more degrading affliction of a rotten republic?

If my soul could come into their counsels, or mine honor be joined unto their assembly, I would tell them that their success now will bring them hideous ruin in the long-run. For a little while it may increase their fortunes, or swell their personal consequence, and gratify their contemptuous hatred of the States and people under their arbitrary rule. But strong government is a weak contrivance, after all, and never lasts. Its front is of brass, but the feet it stands on are always made of clay. Let those who would identify their interests with Grantism think well how unsafe is the protection they are seeking.

J. S. BLACK.